

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LUCY PARSONS LABS,)
)
Plaintiff,)
)
v.)
)
CHICAGO POLICE DEPARTMENT,)
)
Defendant.)

2019CH11406

6803833

COMPLAINT

NOW COMES Plaintiff, LUCY PARSONS LABS by its undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant CHICAGO POLICE DEPARTMENT's refusal, in willful violation of the Illinois Freedom of Information Act, to produce records related to the CHICAGO POLICE DEPARTMENT's participation in the executive track titled 'Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore,' given at the 2019 International Association of Chiefs of Police at LEIT Tech Conference and exposition in Jacksonville, FL. In support of its Complaint, LUCY PARSONS LABS states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. Under FOIA Section 1.2, “[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt.” 5 ILCS 140/1.2.

4. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.” 5 ILCS 140/11(h).

PARTIES

5. Plaintiff LUCY PARSONS LABS (“LPL”) is the FOIA requester in this case.

6. Defendant CHICAGO POLICE DEPARTMENT (“CPD”) is a public body located in Cook County, Illinois.

MAY 22, 2019 FOIA REQUEST

7. On May 22, 2019, LPL submitted a FOIA request to CPD seeking “[a]ny internal documentation—including notes, slide shows, or presentations, audio recordings, video recordings, etc.—relating to the agency’s participation in the executive track titled ‘Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore’ given at the 2019 International Association of Chiefs of Police at LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019).” LPL additionally requested

under FOIA that “CPD retrieve all records that the University of Chicago possess for the purposes of this FOIA.” Exhibit A.

8. On May 23, 2019, CPD sent an automated message confirming receipt of the FOIA request and assigned the tracking number P493252-052319 to the request. Exhibit B.

9. On May 23, 2019, CPD acknowledged receipt of the request and took a five-day extension: “The requested records are stored in whole or in part at other locations than the office having charge of the requested records.” Exhibit C.

10. On June 6, 2019, CPD partially granted and partially denied the request: “a request of ‘all records that the University of Chicago possess’ is not a valid description of the Chicago Police Department to fulfill your request.” CPD asserted that the “FOIA request ‘must reasonably identify a public record and not general data, information, or statistics.’” Exhibit D.

11. In that same letter, CPD claimed: “given the scope of your request, processing such a request would be unduly burdensome as written.” Exhibit D.

12. On June 17, 2019, LPL emailed CPD to clarify and narrow its request: “Lucy Parsons Labs requests that you do an additional search for records. We are asking to narrow our search for all documents that the University of Chicago has in their possession ‘in preparation for this presentation.’ We are not asking for all of the documents that the University of Chicago (or the Crime Lab) have in general.” Exhibit E.

13. CPD never responded to LPL’s attempt to clarify and narrow the request.

14. The University of Chicago records within the scope of IACP LEIT 2019 is considered a public record. A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and

is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act. 5 ILCS 140/7(2).

15. In violation of FOIA Section 3(g), CPD failed “to confer with [Plaintiff] in an attempt to reduce the request to manageable proportions” before invoking the exemption. *See* 5 ILCS 140/3(g).

16. As the date of this filing, CPD has produced no further records responsive to the request.

COUNT I – MAY 22, 2019 FAILURE TO PRODUCE RECORDS

17. The above paragraphs are incorporated by reference.

18. CPD is a public body under FOIA.

19. The records sought in the FOIA request are non-exempt public records of CPD.

20. CPD has violated FOIA by failing to provide LPL with the records it requested.

COUNT II – MAY 22, 2019 FAILURE TO PERFORM AN ADEQUATE SEARCH

21. The above paragraphs are incorporated by reference.

22. CPD is a public body under FOIA.

23. CPD bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

24. CPD has failed to come forward with sufficient evidence to carry this burden.

25. CPD has violated FOIA by failing to adequately search for responsive records.

COUNT III – MAY 22, 2019 WILLFUL AND INTENTIONAL VIOLATION OF FOIA

26. The above paragraphs are incorporated by reference.

27. CPD is a public body under FOIA.

28. The records sought in the FOIA request are non-exempt public records of CPD.

29. CPD has willfully and intentionally or otherwise in bad faith violated FOIA.

WHEREFORE, LPL asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that CPD has violated FOIA;
- iii. order CPD to produce the requested records;
- iv. enjoin CPD from withholding non-exempt public records under FOIA;
- v. order CPD to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate

Dated: October 2, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiff
LUCY PARSONS LABS

Matthew Topic
Joshua Burday
Merrick Wayne
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com
Atty. No. 41295

FOIA Request

Sent: **Wednesday, May 22, 2019 9:00 PM**

From: **Jakea350 Jakea350@protonmail.com**

To: **foia@chicagopolice.org foia@chicagopolice.org**

CC: **freddy@lucyparsonslabs.com freddy@lucyparsonslabs.com**

Pursuant to the Freedom of Information Act, I hereby request the following records:

Any internal documentation - including notes, slide shows or presentations, audio recordings, video recordings, etc - relating to the agency's participation in the executive track titled "Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore" given at the 2019 International Association of Chiefs of Police LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019).

I am confident that there are records involved with this request due to the fact that it is publicly known that employees of the Chicago Police Department participated and presented at this conference. Information confirming this can be found here: <https://plan.core-apps.com/iacptech2019/event/11bea9d15bd5a16632a368c3a9c599b3>.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

J Ader

Re: FOIA Request

Received: ➡ Wednesday, May 22, 2019 9:39 PM

From: **Freddy Martinez** freddy@lucyparsonslabs.com

To: **Jakea350** Jakea350@protonmail.com

CC: foia@chicagopolice.org foia@chicagopolice.org

FOIA officers,

We additionally request that CPD retrieve all records that the University of Chicago possesses for the purposes of this FOIA. From the Illinois FOIA act (emphasis added is ours):

(2) A public record that is not in the *possession* of a public body but is in the *possession* of a *party* with whom the agency has *contracted to perform a governmental function* on behalf of the public body, and that *directly relates* to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

Best,
Freddy Martinez
Director, Lucy Parsons Labs

On Wed, May 22, 2019 at 2:01 PM Jakea350 <Jakea350@protonmail.com> wrote:
Pursuant to the Freedom of Information Act, I hereby request the following records:

Any internal documentation - including notes, slide shows or presentations, audio recordings, video recordings, etc - relating to the agency's participation in the executive track titled "Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore" given at the 2019 International Association of Chiefs of Police LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019).

I am confident that there are records involved with this request due to the fact that it is publicly known that employees of the Chicago Police Department participated and presented at this conference. Information confirming this can be found here: <https://plan.core-apps.com/iacptech2019/event/11bea9d15bd5a16632a368c3a9c599b3>.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

J Ader

Non-Commercial FOIA Request :: P493252-052319

Received: Thursday, May 23, 2019 11:11 AM

From: Chicago Public Safety chicagops@mycusthelp.net

To: jakea350@protonmail.com jakea350@protonmail.com

Dear J:

Thank you for your interest in information from the Chicago Police Department. Your FOIA request has been received and is being processed. Your FOIA Center reference number for tracking purposes is: **P493252-052319**

You have requested the following records: ***Any internal documentation - including notes, slide shows or presentations, audio recordings, video recordings, etc - relating to the agency's participation in the executive track titled "Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore" given at the 2019 International Association of Chiefs of Police LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019). We additionally request that CPD retrieve all records that the University of Chicago posses for the purposes of this FOIA. From the Illinois FOIA act (emphasis added is ours): (2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.***

Chicago Police Department (CPD) responds to all public records requests in accordance with the Illinois Freedom of Information Act (FOIA), 5 ILCS 140/1 et seq. If further time is needed to assemble and copy all documents responsive to your FOIA request, we will contact you with a time estimate and a request to extend.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Thank you for using the Chicago FOIA Center.

to monitor the progress or update this request please log into the [Chicago Public Safety Record System](#).

Non-Commercial Police FOIA Request :: P493252-052319

Received: ➡ Thursday, May 23, 2019 12:04 PM

From: Chicago Public Safety chicagops@mycusthelp.net

To: jakea350@protonmail.com jakea350@protonmail.com



05/23/2019

J Ader
Chicago IL 606

RE: FOIA REQUEST of May 22, 2019, Reference # P493252-052319

Dear J:

The Chicago Police Department is in receipt of your Freedom of Information Act (FOIA) request. On May 22, 2019, the following request was received.

Any internal documentation - including notes, slide shows or presentations, audio recordings, video recordings, etc - relating to the agency's participation in the executive track titled "Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore" given at the 2019 International Association of Chiefs of Police LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019).

We additionally request that CPD retrieve all records that the University of Chicago possesses for the purposes of this FOIA. From the Illinois FOIA act (emphasis added is ours):

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. 5 ILCS 140/3(e). We are extending the time to respond to your request by 5 business days for the following reason(s):

The requested records are stored in whole or in part at other locations than the office having charge of the requested records;

If you have any questions, please contact our office at 312-745-5308 or at the following address:

Chicago Police Department
Attention: Freedom of Information Officer
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653

Sincerely,

Kendra Moore
Freedom of Information Officer
Chicago Police Department

|

FILED DATE: 10/2/2019 1:36 PM 2019CH11406



Lori E. Lightfoot
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

06 June 2019

Freddy Martinez

Sent Via Email: freddy@lucyparsonslabs.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST FOIA FILE NO.: P493252

Dear Mr. Martinez:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request. In your request, you indicated that you are seeking:

"Any internal documentation - including notes, slide shows or presentations, audio recordings, video recordings, etc - relating to the agency's participation in the executive track titled "Data-Driven Approaches to Gun Violence Reduction: Lessons from Los Angeles, Chicago, and Baltimore" given at the 2019 International Association of Chiefs of Police LEIT Tech Conference and exposition in Jacksonville, FL (other known as IACP LEIT 2019).

We additionally request that CPD retrieve all records that the University of Chicago possess for the purposes of this FOIA. From the Illinois FOIA act (emphasis added is ours):

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act."

Your request was reviewed by the undersigned. A copy of the responsive information is being released as compiled by the Information Services Division and is provided with this response.

With regard to your request of "all records that the University of Chicago possess," please be advised that your FOIA request "must reasonably identify a public record and not general data, information, or statistics" *Kenyon v. Garrels*, 184 Ill.App.3d 28, 32, 132 Ill.Dec. 595, 540 N.E.2d 11, 13 (1989) (quoting *Krohn v. Department of Justice*, 628 F.2d 195, 198 (D.C.Cir.1980)). To that extent, a request of "all records that the University of Chicago possesses" is not a valid description for the Chicago Police Department to fulfill your request. Moreover, given the scope of your request, processing such a request would be unduly burdensome as written. In 5 ILCS 140/3(g), FOIA provides that requests for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information.

Emergency and TTY: 9-1-1 · Non Emergency and TTY: (within city limits) 3-1-1 · Non Emergency and TTY: (outside city limits) (312) 746-6000

E-mail: police@cityofchicago.org · Website: www.cityofchicago.org/police

Exhibit D

FILED DATE: 10/2/2019 1:36 PM 2019CH11406

Given the extraordinary number of records, both electronic and in paper format that might be responsive to this request, CPD has determined that compliance with your request is unduly burdensome and that CPD's burden to process your request outweighs the public's interest.

At this time your request as currently written has been interpreted as voluminous and therefore unduly burdensome. Pursuant to section 3(g) of FOIA, we would like to extend to you an opportunity to modify your request to make it more manageable. Until a new FOIA request is submitted that limits the records you are seeking, CPD will be unable to process your petition. CPD encourages you to review your request to ascertain the details of your query. If there is a particular category of your request which you are most interested, it may be possible to conduct a search based on these parameters. Once this is determined, a new FOIA request can be submitted to CPD, specifying the records you would like CPD to provide.

You have a right of review by the Illinois Attorney General's Public Access Counselor. If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of a denial letter 5 ILCS 140-9.5(a). When filing a Request for Review, you must include a copy of the original FOIA request and a denial letter. You may also seek judicial review of a denial under 5 ILCS 140/11 by filing a lawsuit in the State Circuit Court. You can file a request for review by writing to the following:

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone: 312-814-5526 or 1-877-299-FOIA (1-877-299-3642)
Fax: 217-782-1396 E-mail: publicaccess@atg.state.il.us

If I can be of further assistance, you may contact me at (312) 745-5308, or by mail at the following address:

Chicago Police Department
Attn: Freedom of Information Officer
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653

Sincerely,

Kendra Moore
Freedom of Information Officer

Re: Non-Commercial Police FOIA Request :: P493252-052319

Received: ➡ Monday, June 17, 2019 3:09 PM

From: **Freddy Martinez** freddy@lucyparsonslabs.com

To: **Chicago Public Safety** chicagops@mycusthelp.net

CC: jakea350@protonmail.com jakea350@protonmail.com

FOIA officers,

As you know under the Illinois FOIA statue you may not claim the unduly burdensome exemption without offering to narrow the request with the requesters.

Lucy Parsons Labs requests that you do an additional search for records. We are asking to narrow our search for all documents that the University of Chicago has in their possession *in preparation for this presentation*. We are not asking for all of the documents that the University of Chicago (or the Crime Lab) have in general.

Best,
Freddy Martinez
Director, Lucy Parsons Labs

On Jun 6, 2019, at 17:09, Chicago Public Safety <chicagops@mycusthelp.net> wrote:

Attachments:

[P493252_Work_File.pdf](#)

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Please see the attached work file in response to your request.
